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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,649	02/20/2004	Geoffrey N. Holland	7135USO4	7346

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EXAMINER	
RINES, ROBERT D	

ART UNIT	PAPER NUMBER
3623	

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06/22/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/783,649	HOLLAND ET AL.	
	Examiner	Art Unit	
	R. David Rines	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 March 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12,15 and 16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12, 15, 16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

[1] This communication is in response to the amendment filed 24 March 2010. It is noted that this application benefits from Provisional Patent Application Serial No. 60/509,404 and 60/527,583 filed 7 October 2003 and 5 December 2003, respectively. Claims 1-11 and 13-14 have been cancelled. Claim 12 has been amended. Claims 12, 15, and 16 are pending.

Rejections of claims 13, 15, 16 are maintained as set forth in the previous Office Action mailed 24 December 2009, herein incorporated by reference. Applicant's remarks and amendments to claim 12 are addressed below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

[2] Claims 12, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggers et al. (United States Patent Application Publication #2006/0106649) in view of Engleson et al. (United States Patent #7,117,041), and further in view of Ford et al. (United States Patent Application Publication #2002/0077852).

With respect to (currently amended) claim 12, Eggers et al. disclose a method for tracking a portable medical device that is movable to and reusable in a plurality of physical location in connection with a plurality of patients and connectable with an electronic network having one or more access nodes, comprising: determining the last access node used by a medical device and reporting the last used access node to a medication management unit (Eggers et al; paragraphs [0056]-[0058]); determining the last known general physical location of a medical device based

on the last access node used by the medical devices as reported at the medication management unit (Eggers et al; paragraphs [0056]-[0058]).

Claim 12 have been amended with respect to the "determining the last access node" step to further include "...reporting the last used access node to a medication management unit that is remote from the medical device and connectable with the electronic network..."

Claim 1 has been additionally amended with respect to the displaying step to further specify that the recited "access device" is "...located remotely from the medication management unit and the medical device…"

As per these element, both Eggers et al. and Engleson et al. disclose tracking the medical device via the network and reporting the location to a central device/medication management unit (see Eggers et al.; paragraphs [0056]-[0058] and Engleson et al. col. 10, lines 45-67, col. 11, lines 1-14. Engleson et al. further disclose displaying the last known general physical location of a medical device at a user access device, based on a report from the medication management unit (Engleson et al. col. 10, lines 45-67, col. 11, lines 1-14 *see display of hospital map). Engleson et al. further disclose that the status of the equipment can be ascertained from the nurses CPU (Engleson et al.; col. 10, lines 23-45). Examiner considers the nurses CPU to be an access device remote from the medication management unit.

Claim 12 has been further amended with respect to the "activating and emitting" step to further recite; "…activating and emitting an audio location alarm from the medical device in response to an audio location alarm request from the user access device relayed through the medication management unit such that the medical device audibly broadcasts the audio location alarm at a then current and specific physical location of the medical device regardless of position relative to another medical device…"

With respect to the medical device reporting its location, Engleson et al. disclose that the system "maintains a record of the current or last known location within the institution, such as an infusion pump or vital sign sensor.....the status of that equipment can be easily ascertained from a video display connected to the nursing CPU..." (Engleson et al.; col. 10, lines 45-62). Engleson further disclose a system capable of emitting alarms and alerts and further displaying those alerts (Engleson et al.; col. 10, lines 23-45).

Claim 1 has been additionally amended to further recite "…proceeding with the user access device to the last known general physical location of the medical device…" and " if upon, proceeding with the user access device to the last known general physical location of the medical device, the medical device is one of absent, commingled with other medical devices, and hidden from view such that additional assistance is required to ascertain a then current and specific location of the medical device, then transmitting an audio alarm message from the user access device to the medication management unit; in response to receipt of the request audio alarm

message, transmitting an order audio locator alarm message from the medication management unit to the medical device…"

As per these elements, Engleson et al. disclose determining and displaying the location of the device and alerts and alarms associated with the device, Engleson et al. fail to specifically disclose a medical device that emits audibly alarms.

However, medical infusion pumps which emit an audibly alarm in accordance with various user settings are well known in the art as evidenced by Ford et al. (Ford et al.; paragraphs [0124]-[0128] [0189]). Examiner considers the utilizing the audibly beeping sound of the pump to locate the pump to be an intended use for the beeping.

The above noted amendments to claim 12 appear to be directed to the actions of a user, i.e., a nurse or medical personnel (e.g. proceeding to the location etc.). Examiner considers "proceeding to the last known location" to constitute a user choice. The medical personnel can walk or "proceed" to wherever they choose. Examiner further maintains that the location of the pump (e.g. commingled with other devices, hidden from view, absent etc.) would not alter the beeping of the pump disclosed by Ford et al.

It would have been obvious to one or ordinary skill in the art at the time the invention was made to have modified network-based technologies to assist in determining the location of each device as a result of their respective connection points to the network (Egges et al.; paragraphs [0056]-[0059]) to further display the location as disclosed in the tracking and monitoring hospital clinical devices of Engleson et al. (Engleson et al.; col. 10, lines 45-61) with the motivation of rapidly locating the required device in cases of emergency (Engleson et al.; col. 10, lines 56-60). It would have been further obvious to one of ordinary skill in the art to have modified the location tracking and displaying features by further utilizing well known audible alarm equipped medical devices/pumps as taught by Ford et al. (Ford et al.; paragraphs [0124]-[0128] [0189]) with the motivation of directing the healthcare providers attention to the pump when an action for the medical care of a patient is required (Ford et al.; paragraph [0126]).

A per claim 15, Engleson et al. disclose a system wherein the medical device is selected from a group of medical devices consisting of a medical pump, a medical diagnostic device, and a patient vital signs monitor (Engleson et al.; col. 6, lines 38-50 col. 10, lines 45-60 *see infusion pump or vital sign sensor).

As per claim 16, while Engleson et al. disclose alarms and alerts, Engleson et al. fail to teach a delayed alert.

However, Ford et al. disclose a time delay before emitting an audible beeping sound from a medical infusion pump (Ford et al.; paragraphs [0124]-[0126]). Examiner considers using emitted sound to locate the pump to be an intended use.

Regarding claims 15-16, the conclusions obviousness and statements of motivation as discussed with regard to claim 12 above are applicable to claims 15-16 and are herein incorporated by reference.

Response to Remarks

Applicant's remarks filed 24 March 2010 have been fully considered but they are not persuasive. The remarks will be addressed below in the order in which they appear in the noted response.

Applicant remarks that the combination of Eggers et al., Engleson et al., and Ford et al, does not teach the process defined by claim 13 of present application.

Specifically, Applicant remarks:

"Eggers and Engleson fail to specifically disclose a medical device that emits audible alarms in conjunction with a method of tracking, locating, or managing such assets...Ford discloses audible beeps from the pump being used to signify to the user.....that values are either acceptable or unacceptable"

Applicant further remarks:

"...in the present invention the audible locator alarm is emitted at the medical device based on a specific request from the remote user....and is not necessarily for directing the healthcare provider's attention to the pump..."

In response, Examiner respectfully disagrees and directs Applicant's attention to the applied teachings of Eggers et al., Engleson et al., and Ford et al.

Both Eggers et al. and Engleson et al. disclose tracking the medical device via the network and reporting the location to a central device/medication management unit (see Eggers et al.; paragraphs [0056]-[0058] and Engleson et al. col. 10, lines 45-67, col. 11, lines 1-14. Engleson et al. further disclose displaying the last known general physical location of a medical device at a user access device, based on a report from the medication management unit (Engleson et al. col. 10, lines 45-67, col. 11, lines 1-14 *see display of hospital map). Engleson et al. further disclose that the status of the equipment can be ascertained from the nurses CPU (Engleson et al.; col. 10, lines 23-45). Examiner maintains that these teachings evidence that the use of a computer network to track and locate medical devices in a hospital are well known.

Ford et al. disclose that it is well known to equip a medical device with an audible alarm that emits an audible signal in response to user inputs (Ford et al.; paragraphs [0124]-[0128] and [0189]). Examiner maintains that in consideration of the network-based location tracking and location display teachings of Eggers et al. and Engleson et al. using the audible alarm to locate the pump is an obvious intended use for the audible alarm.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. David Rines whose telephone number is (571)272-5585. The examiner can normally be reached on 8:30am - 5:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. David Rines/
Primary Examiner, Art Unit 3623